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UNION - Supreme Court, U. S.

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CHARLES ELMORE GROPLEY
CLERK

IN THE

**SUPREME COURT OF THE
UNITED STATES**

October Term, 1944.

Nos. 379 and 380.

**COLORADO INTERSTATE GAS COMPANY,
a Corporation, PETITIONER,**

v.

**FEDERAL POWER COMMISSION, CITY AND COUNTY
OF DENVER, COLORADO, PUBLIC SERVICE COM-
MISSION OF WYOMING, COLORADO-WYOMING
GAS COMPANY, PUBLIC SERVICE COMPANY OF
COLORADO, and CANADIAN RIVER GAS COM-
PANY, RESPONDENTS.**

**CANADIAN RIVER GAS COMPANY,
a Corporation, PETITIONER,**

v.

**FEDERAL POWER COMMISSION, CITY AND COUNTY
OF DENVER, COLORADO, PUBLIC SERVICE COM-
MISSION OF WYOMING, COLORADO-WYOMING
GAS COMPANY, PUBLIC SERVICE COMPANY OF
COLORADO, and COLORADO INTERSTATE GAS
COMPANY, RESPONDENTS.**

**MOTION OF PUBLIC SERVICE COMPANY OF COLORADO
FOR ORDER FOR DISTRIBUTION OF
IMPOUNDED MONIES.**

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*Attorneys for Respondent, Public
Service Company of Colorado.*

IN THE

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COLORADO INTERSTATE GAS COMPANY,
a Corporation, Petitioner,

v.
FEDERAL POWER COMMISSION, CITY AND COUNTY
OF DENVER, COLORADO, PUBLIC SERVICE COM-
MISSION OF WYOMING, COLORADO-WYOMING
GAS COMPANY, PUBLIC SERVICE COMPANY OF
COLORADO, and CANADIAN RIVER GAS COM-
PANY, Respondents.

CANADIAN RIVER GAS COMPANY,
a Corporation, Petitioner,

v.
FEDERAL POWER COMMISSION, CITY AND COUNTY
OF DENVER, COLORADO, PUBLIC SERVICE COM-
MISSION OF WYOMING, COLORADO-WYOMING
GAS COMPANY, PUBLIC SERVICE COMPANY OF
COLORADO, and COLORADO INTERSTATE GAS
COMPANY, Respondents.

**MOTION OF PUBLIC SERVICE COMPANY OF COLORADO
FOR ORDER DIRECTING DISTRIBUTION
OF MONIES:**

*To the Honorable Chief Justice and Associate Justices of
the Supreme Court of the United States:*

Comes now Public Service Company of Colorado, a corporation, Respondent in the above entitled causes, by its counsel, and respectfully moves the Court that the Tenth Circuit Court of Appeals be ordered to distribute the monies impounded and now on deposit under the order of said Circuit Court of May 16, 1942, to the ultimate gas consumers.

served by this Respondent, and as grounds therefor said Respondent respectfully submits:

1. Respondent is a utility corporation organized and existing under and by virtue of the laws of the State of Colorado and is engaged, among other things, in the business of distributing natural gas at retail in several cities and towns in the State of Colorado, including the City of Denver, and rural territory in said state and through its subsidiary, The Pueblo Gas and Fuel Company, a corporation, serves the consumers in the City of Pueblo in said state, and said Company also through its subsidiary, Cheyenne Light, Fuel and Power Company, serves the consumers in the City of Cheyenne in the State of Wyoming.

2. That, on, to-wit, the 16th day of May, 1942, the said Circuit Court of Appeals, in compliance with the prayer of a petition filed April 20, 1942, for an order staying the order of the Federal Power Commission in said cause, said Court entered a certain stay order in said cause providing inter alia the amounts so deposited shall "**** remain on deposit as provided in said order and, in said escrow agreement, subject, however, to the further order or orders of this Court to be returned to such ultimate gas consumers or persons to whom the Court shall find the same should be returned as contemplated by the provisions of the Natural Gas Act" (R. V. I, P. 118).

3. That under the decisions and orders of the Federal Power Commission, the said Circuit Court of Appeals of the Tenth Circuit and this Court it has been found and determined that the funds so deposited in escrow, as aforesaid, represent income to the Colorado Interstate Gas Company in excess of the income to which it was lawfully entitled for the sale of natural gas to this Respondent and to other purchasers thereof.

4. That said impounded fund has not been paid or delivered to this Respondent at any time, and at no time has said fund constituted taxable income of this Respondent, and this Respondent has at no time asserted any right, title, interest, claim or demand to said fund.

5. That from and since the said 16th day of May, 1942,

(the date of the entry of said order impounding said funds), this Respondent, the Respondent, the City and County of Denver, and the ultimate consumers of natural gas throughout the State of Colorado and in Cheyenne, Wyoming, have been and are now of the belief that said impounded funds are not the property of this Respondent but should be paid and delivered to said ultimate consumers.

6. That the ultimate gas consumers are of right entitled to the funds so deposited in escrow, as aforesaid, in equity and good conscience as monies had and received by the Colorado Interstate Gas Company, Respondent herein, for their benefit and are the equitable owners of a primary right thereto.

WHEREFORE, this Respondent moves the Court that said Tenth Circuit Court of Appeals be ordered to pay said monies to such person, persons or agency as this Court shall designate to the end that said funds shall be paid and delivered to the ultimate consumers of natural gas, and that the Court in making and entering such order find and determine that said impounded funds are not and have never been the property of this Respondent, and that said funds have never constituted taxable income of this Respondent, and that said Circuit Court be further ordered to continue to hold said impounded fund for a reasonable period of time within which any and all persons who may have any lawful claim, right, title or interest in and to said fund may appear therein and cause to be adjudicated their rights in the premises; and that upon the expiration of such reasonable time, to be fixed by said Circuit Court of Appeals, all claims of whatsoever kind or nature in and to said fund be forever barred.

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